



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

RELIABILITY & SECURITY

IN THE MATTER OF ALLEGED VIOLATIONS
OF THE UNDERGROUND FACILITY
PROTECTION ACT, N.J.S.A. 48:2-73 ET SEQ.

)
) ORDER ACCEPTING SETTLEMENTS
)

DOCKET NOS. GS04060470K -
CS04060516K (see attached
Appendix)

SERVICE LIST ATTACHED

BY THE BOARD:

The Board of Public Utilities ("Board") has jurisdiction to oversee and enforce the provisions of the Underground Facility Protection Act ("the Act") pursuant to the provisions set forth in N.J.S.A. 48:2-73 et seq. The primary purpose of the Act is to establish the One-Call Damage Prevention System for the protection of underground facilities that are used for the conveyance of water, forced sewage, telecommunications, cable television, electricity, oil, petroleum products, gas, optical signals, traffic control, or for the transportation of a hazardous liquid. In declaring its findings and the purpose of the Act, the Legislature stated, in pertinent part:

[T]hat damage to underground facilities caused by excavation and the discharge of explosives poses a significant risk to the public safety; that such damage to underground natural gas facilities poses a substantial risk to the public safety; and that the implementation of a comprehensive One-Call Damage Prevention System can substantially reduce the frequency of damage caused by these activities.

The Legislature therefore determines that it is in the public interest for the State to require all operators of underground facilities to participate in a One-Call Damage Prevention System and to require all excavators to notify the One-Call Damage Prevention System prior to excavation or demolition. N.J.S.A. 48:2-74.

The Act defines "excavator" as "any person performing excavation or demolition," while the term "operator" is defined as "a person owning or operating, or controlling the operation of, an underground facility . . ." N.J.S.A. 48:2-75. The One-Call Damage Prevention System ("the System") coordinates communication and responsive action between these two groups of persons. N.J.S.A. 48:2 -80, -82.

The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day. N.J.S.A. 48:2-88. In addition, the violator may be assessed the cost of any Board investigation, inspection or monitoring survey which leads to the

establishment of a violation and for the reasonable costs of preparing and litigating the matter.
N.J.S.A. 48:2-86(b)(2).

Following reports of alleged violations of the Act, including allegations of failure to call the System prior to commencing excavation or demolition activities, failure to hand dig and locate facilities, failure to use reasonable care, or failure to mark out underground facilities or improper mark out, Board staff contacted the entities listed on Schedule A and informed them of the date and location of the alleged violations, also listed on Schedule A.

In an attempt to resolve this matter, each listed excavator or operator has submitted an Offer of Settlement to the Board for its consideration, the dollar amount of each as set forth on Schedule A. After consideration of these matters, the Board HEREBY ACCEPTS these Offers of Settlement in full settlement of the above referenced alleged violations of the Act.

By acceptance of the various Offers of Settlement, and the timely payment thereof, the Excavator has waived any rights to a hearing and the Board has waived any rights to bring an action for civil penalties as permitted by the Underground Facility Protection Act in connection with the above referenced alleged violations of the Act. The acceptance of the Offers of Settlement, however, are for settlement purposes only and apply strictly to the specific incidents set out in Schedule A. This acceptance is without prejudice as to the position of the State of New Jersey or any agency or subdivision thereof as to any other violations not explicitly listed which may be present, now or in the future.

THIS ORDER REQUIRES NO FURTHER ACTION BY RESPONDENTS

DATED: ***July 8, 2004***

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY

BPU Docket No.	One Call Docket No.	Operator	Excavator	Violation Date	Location	Penalty	Payment received
GS04060470K	GOC2004-0007	New Jersey Natural Gas	*Little Silver Electric, Inc.	May 19, 2004	Riverview Medical Center Red Bank	\$10,000	June 8, 2004
GS04060471K	GOC2004-0003	New Jersey Natural Gas	*Mannino & Sons Construction Corp.	April 22, 2004	30 Park Road, Tinton Falls	\$3,000	May 10, 2004
WS04060472K	WOC2004-0001	New Jersey American Water	*Mannino & Sons Construction Corp.	April 22, 2004	30 Park Road, Tinton Falls	\$3,000	May 10, 2004
ES04060473K	OC#9-04		*Jersey Central Power & Light	February 5, 2004	Various pole locations North Hanover Township	\$6,000	April 29, 2004
GS04060474K	GOC2003-0102	New Jersey Natural Gas	*Donato Hi-Tech Holdings III, Inc.	October 30, 2003	Meridan Rd., W. Industrial Way, Eatontown	\$3,000	January 15, 2004
WS04060475K	OC#1-03	*New Jersey American Water		December 17, 2002	Holmdel Road, Holmdel	\$1,500	January 20, 2004
ES04060476K	OC#3-03		*Public Service Electric & Gas	January 10, 2003	Across from 515 Ryders Lane, East Brunswick	\$2,500	January 31, 2003
ES04060477K	OC#4-03	*Public Service Electric & Gas		November 27, 2002	350 Engle Street, Englewood	\$8,000	February 10, 2003
ES04060478K	OC#5-03	*Public Service Electric & Gas		January 15, 2004	Market St. between Jersey & Mill Street, Paterson	\$1,000	March 3, 2003
ES04060479K	OC#6-03	*Public Service Electric & Gas		January 13-15, 2003	22-28 Market Street, Paterson	\$1,000	March 3, 2003
TS04060480K	OC#8-03	*Verizon		January 23, 2003	Edison Pl. Hwy. 21, Newark	\$1,000	August 7, 2003
AS04060481K	OC#10-03		*Talon Drilling Company	March 12, 2003	Near 408, Rt. 1 & 9 Newark	\$2,000	April 4, 2003
AS04060482K	OC#11-03		*Decker & Decker Construction Company, Inc.	March 17, 2003	1122 Clifton Avenue, Clifton	\$2,000	April 7, 2003
TS04060483K	OC#13-03		*Level 3	March 19, 2003	Rt. 1 N. Between Menlo Park Drive & Parsonage Road, Edison	\$1,500	May 7, 2003
WS04060484K	OC#14-03	*Middlesex Water Company		March 19, 2003	Rt. 1 N. Between Menlo Park Drive & Parsonage Road, Edison	\$2,000	April 3, 2003
AS04060485K	OC#18-03		*Skoda Contracting Company, Inc.	April 8, 2003	Rt. 9 S. Near Chevalier Avenue, Sayreville	\$1,000	April 23, 2003
GS04060486K	OC#22-03	*New Jersey Natural Gas		April 29, 2003	102 Ivy Road, Freehold Township	\$1,000	May 20, 2003

BPU Docket No.	One Call Docket No.	Operator	Excavator	Violation Date	Location	Penalty	Payment received
GS04060487K	OC#21-03	*New Jersey Natural Gas		April 29, 2003	53 Desai Court Howell	\$1,500	May 20, 2003
ES04060488K	OC#27-03	*Public Service Electric & Gas		July 10, 2003	US Hwy. 1 Loring Avenue, Edison	\$5,000	August 18, 2003
TS04060489K	OC#30-03	*AT&T		June 14, 2003	W. Lake Avenue near Black Horse Pike, Monroe	\$3,000	September 22, 2003
ES04060490K	OC#79-03	*Public Service Electric & Gas		August 28, 2003	51 Hancock Avenue, Jersey City	\$3,000	December 9, 2003
ES04060491K	OC#83-03	*Public Service Electric & Gas		September 4, 2004	17 McKinley Street, Nutley	\$2,000	December 2, 2003
ES04060492K	OC#84-03	*Public Service Electric & Gas		September 6, 2003	11 Manor Hill Road, Summit	\$2,000	December 8, 2003
ES04060493K	OC#90-04	*Public Service Electric & Gas		September 29, 2003	1236 Ocean Court, Deptford	\$2,000	November 18, 2003
ES04060494K	OC#96-03	*GPU Energy		October 17-21, 2003	10 E. Lawn Drive, Holmdel	5,000	December 9, 2003
ES04060495K	OC#95-03	*GPU Energy		October 18-21, 2003	7 E. Lawn Drive, Holmdel	\$4,000	November 25, 2003
AS04060496K	OC#101-03		*Artur Alves Construction, LLC	October 31, 2003	Holly Complex, Cedar Grove	\$2,000	March 9, 2003
AS04060497K	OC#93-03		*Falcon Excavating, Inc.	October 17 & 20, 2003	1 Holly Lane Cedar Grove	\$2,000	November 17, 2003
GS04060498K	GOC2003-0006	Public Service Electric & Gas	*Electr-Tech, Inc.	April 14, 2003	27 High Street, Allentown, Elementary School	\$5,000	June 16, 2003
GS04060499K	GOC2003-0085	*Public Service Electric & Gas	*Waters & Bugbee, Inc.	July 24, 2003	170 Burnet Cresant, Washington Township	\$3,000	August 25, 2003
GS04060501K	GOC2003-0042	*New Jersey Natural Gas	Monmouth Contractors	January 17, 2003	1851 Route 35 N. Ortley Beach	\$3,000	December 15, 2003
GS04060502K	GOC2003-0026	New Jersey Natural Gas	*Conectiv	January 9, 2003	23 N. 6 th Street, Surf City	\$2,000	December 1, 2003
GS04060503K	GOC2003-0051	*New Jersey Natural Gas	Kales Nursery & Landscaping	February 5, 2003	1060 Barnegat Lane, Mantoloking	\$3,000	November 12, 2003
GS04060504K	GOC2003-0043	*New Jersey Natural Gas	GPU Energy	February 5, 2003	1060 Barnegat Lane, Mantoloking	\$3,000	November 12, 2003
GS04060505K	GOC2003-0046	*New Jersey Natural Gas	B & B Construction	January 27, 2003	Trenton Avenue, Lavallette	\$3,000	January 23, 2003
GS04060506K	GOC2003-0049	New Jersey Natural Gas	*Mountain Laurel Homes, Inc.	February 4, 2003	1002 Crew Lane, Manahawkin	\$3,000	September 22, 2003

BPU Docket No.	One Call Docket No.	Operator	Excavator	Violation Date	Location	Penalty	Payment received
GS04060507K	GOC2003-0100	*Public Service Electric & Gas	Public Service Electric & Gas	October 25, 2003	Elizabeth Avenue, South Boundbrook	\$5,000	December 16, 2003
GS04060508K	GOC2003-0101	New Jersey Natural Gas	*Frywell Drilling Co.	November 10, 2003	Chimney Rock Road, near Thompson Ave. Boundbrook	\$5,000	December 15, 2003
GS04060509K	GOC2003-0104	*Elizabethtown Gas	DMI Construction	October 25, 2003	555 Mountain Avenue, Westfield	\$3,000	December 19, 2003
GS04060510K	GOC2003-0048	*New Jersey Natural Gas	D & D Utility	January 29, 2003	5 Harfield Drive, Jackson	\$3,000	December 15, 2003
TS04060511K	OC#98-03	*Verizon		October 17-21, 2003	10 E. Lawn Drive, Holmdel	\$5,000	December 5, 2003
TS04060512K	OC#97-03	*Verizon		October 18-21, 2003	7 E. Lawn Drive, Holmdel	\$4,000	December 5, 2003
TS04060513K	OC#92-03	*Verizon		October 7, 2003	Garden State Parkway Mile Post 165, Paramus	\$2,000	December 5, 2003
TS04060514K	OC#91-03	*Verizon		October 7, 2003	43 Route 47, Cape May	\$2,000	December 5, 2003
TS04060515K	OC#89-03	*Verizon		October 7, 2003	701 Jane Drive, Franklin Lakes	\$2,000	December 5, 2003
CS04060516K	OC#20-03	*Cablevision		April 29, 2003	53 Desai Court, Howell	\$1,000	June 2, 2003

*Alleged Violator

IN THE MATTER OF ALLEGED VIOLATIONS OF THE
UNDERGROUND FACILITY PROTECTION ACT, N.J.S.A. 48:2-73 ET SEQ.

DOCKET NOS. GS04060470K & CS04060516K (see attached Appendix)

Little Silver Electric Inc.
68 Birch Avenue
PO Box 308
Little Silver, NJ 07739

Mannino & Sons Construction Company
20 Yale Court
Livingston, NJ 07039

Jersey Central Power & Light Company
Sally Cheong
300 Madison Avenue
Morristown, NJ 07962

Donato Hi-Tech Holdings, III, Inc.
80 Corbett Way
Eatontown, NJ 07724

New Jersey Natural Gas Company
Kevin Moss
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719

New Jersey American Water Company
Andrew Clarkson
500 Grove Street
Haddon Heights, NJ 08035

Public Service Electric & Gas Company
Willard Carey
80 Park Plaza Mail Code T13
Newark, NJ 07107

Verizon
Sam Caldwell
540 Broad Street, Floor 17
Newark, NJ 07102-3178

Talon Drilling Company
Jeff Jaworski
100 Lexington Avenue
Trenton, NJ 08618

Decker & Decker Construction Company,
Inc.
Frank Decker
300 Otterhole Road
West Milford, NJ 07480

Level 3
Anthony Barone
165 Halsey Street – 7th Floor
Newark, NJ 07102

Middlesex Water Company
Bob Fullagar
1500 Ronson Road
Iselin, NJ 08830

Skoda Contracting Company, Inc.
689 Leesville Avenue
Rahway, NJ 07065

AT&T
J.J. Henderson
50 Patricia Drive
Flanders, NJ 07836

Artur Alves Construction LLC
486 Elizabeth Avenue
Franklin Township, NJ 08873

Falcon Excavating Inc.
15 Iron Horse Road
Oakland, NJ 07436

Electri-Tech, Inc.
82 Tuckahoe Road
Dorothy, NJ 08317

Waters & Bugbee, Inc.
314 Dickinson Street
Trenton, NJ 08638

Monmouth Contractors
974 Highway 33 East
Freehold, NJ 07728

Conectiv
Paula James
5100 Harding Highway
Mays Landing, NJ 08330

Kales Nursery & Landscaping
133 Carter Road
Princeton, NJ 08540

Mountain Laurel Homes, Inc.
Gregg Fryer
1095 Windlass Drive
Manahawkin, NJ 08050

Frywell Drilling Company
216 Virginville Road
Hamburg, PA 19526

Elizabethtown Gas Company
Mary Patricia Keefe
One Elizabethtown Plaza
PO Box 3175
Union, NJ 07083-1975

DMI Construction
33 West End Avenue
Greenbrook, NJ 08812

D&D Utility
272 West Avenue
Long Branch, NJ 07740

Cablevision
Pete Mann
40 Pine Street
Tinton Falls, NJ 07753